IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION

CRIMINAL APPEAL NO.647 OF 1987.

The State of Maharashtra .Appellant

Versus

Mohmedali Mainuddin Majid
r.o. Ansari Chowk,
Barad Karkhana,
Kalyan, Dist : Thane

2. Imran Ibrahim Mohammed
(case against accused no.2 is dismissed)
..Respondents

Smt.V.R.Bhosale for the appellant

Respondent No.1 served

CORAM: S.B.MHASE &
S.R.SATHE, JJ.

DATE : 16th Sept, 2005

JUDGMENT (PER S.B.MHASE, J.)

1. This appeal is directed against the Judgment and order dt 15.4.1987 passed by the IIIrd Additional Sessions Judge, Nasik in Sessions Case No.218 of 1986. The Respondent Nos.1 and 2 were charged for the offences punishable under Sections 21 and 22 of the Narcotic Drugs and Psychotropic Substance Act, 1985. By the above referred judgment they were acquitted and the State has filed this appeal challenging the acquittal of the accused.

2. It appears that so far as the present appeal is concerned, it survives only against the Respondent No.1 who is original accused no.1. The said appeal has been dismissed by this Court as against the Respondent No.2 vide order dated 23.3.1999 since the State has failed to serve the respondent No.2. Apart from that, when the search of Respondent No.2 was taken by the Police Officer, nothing was found with him except an amount of Rs.60/-, so as to implicate the Respondent No.2 in the present appeal.

3. The Brief facts of the case are as follows :

On 26.9.1986, PSI Gaikwad received information while he was at Bhadrakali Police Station, Nasik that the Original accused Nos.1 and 2 were dealing in Brown Sugar near Vikas Lodge, situated behind S.T.Stand, and therefore, a bogus Customer,namely Razak Shaikh Gafoor was sent with a currency note of Rs.50/- denomination bearing No.3A 216203. At the moment the punter (bogus customer) gave signal, the raiding party raided the place and it was found that the Respondent No.1 was in possession of a currency note of Rs.50/- denomination and eight packets of plastic bag containing brown sugar, each weighing 5 grams, and thereafter on preparing panchanama the prosecution was lodged.

4. The trial Court has found that, before giving the currency note of Rs.50/- to the punter there should have been panchanama of the same. However, the same was not made by the Investigating Officer. Apart from that, the currency note which was found with the accused was not bearing the number of the Currency note which was given to the punter. This discrepancy was not explained by the prosecution. It if further noticed by the trial Court that the the panchanama itself appears to be doubtful. Therefore, the trial Court has not convicted the accused for possession of brown sugar.

5. The learned APP Smt.V.R. Bhosale pointed out the material which was relied upon by the trial Court. All this shows that the trial Court was justified in acquitting the accused and therefore there is no need to interfere with the same.

. The Appeal is therefore dismissed.

(S.R.SATHE, J.) (S.B.MHASE,J.)